

EXHIBIT "A"

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CAROLINE CLARK,
Plaintiff,

VS.

AUSTIN MONTESSORI SCHOOL,
INC.,

Defendant.

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CIVIL ACTION

NO. A-12-CA-007-SS

JURY TRIAL DEMANDED

ORAL DEPOSITION OF THE CORPORATE REPRESENTATIVE

OF AUSTIN MONTESSORI SCHOOL, INC.,

DAWN GLASGOW

JULY 26, 2012

ORAL DEPOSITION OF DAWN GLASGOW, produced as a
witness at the instance of the Plaintiff, and duly
sworn, was taken in the above-styled and numbered cause
on the 26th day of July, 2012, from 10:00 a.m. to 4:05
p.m., before Cynthia Warren, Certified Shorthand
Reporter in and for the State of Texas, reported by
machine shorthand, at the offices of The Cook Law Firm,
919 Congress Avenue, Suite 1145, Austin, Texas 78701,
pursuant to the Federal Rules of Civil Procedure and the
provisions stated on the record or attached hereto.

1 it's not me sitting in my office filling out a form
2 incorrectly.

3 Q. Besides getting advice from the accountant on
4 whether certain individuals are employees or independent
5 contractors, has the corporation sought any other
6 professional advice as far as those classifications?

7 A. No.

8 Q. If you'll turn to Exhibit 1. If you look at
9 number 2 in the notice of deposition, you've been
10 designated to testify as to the names of each individual
11 in defendant's payroll in each week of 2009, the
12 classification of those individuals by defendant as
13 employees or independent contractors, and the facts on
14 which those classifications were based. Do you see
15 that?

16 A. Uh-huh. Yes.

17 Q. Are you prepared and able to testify as to
18 number 2 on Exhibit 1?

19 A. To the best of my memory.

20 Q. Okay. Well, does your memory allow you to
21 testify to all those individuals that were on the
22 payroll in 2009?

23 A. I will not be able to recall all of the names
24 of the individuals on the payroll in 2009.

25 Q. Well, did you make efforts to look at documents

1 that would enable you to testify to number 2?

2 A. Yes, I looked at the documents, but I can't
3 remember all of the names.

4 Q. I want you to name the individuals on -- are
5 you going to be able to testify as to which individuals
6 were on the payroll for each week in 2009?

7 A. No.

8 Q. Did you make any preparations or efforts that
9 you can testify as to that today?

10 A. Not -- I cannot recall specifically every
11 person that was on the payroll for each week in 2009.

12 Q. Did you look at information in preparing for
13 this deposition which provided you with the names on
14 defendant's payroll for each week in 2009?

15 A. I looked at information and -- but it's not in
16 a way that I could remember all of -- that wasn't -- I
17 was familiarizing myself with it, not trying to commit
18 it to memory.

19 Q. What documents did you look at that showed you
20 the individuals on defendant's payroll for each week of
21 2009?

22 A. The payroll register reports that I was telling
23 you about.

24 MR. COOK: And we can talk about this
25 after a break, but I think those need to be produced.

1 do is, I'm going to go down by name and I want you to
2 agree on behalf of the corporation whether these
3 individuals were employees of the corporation at any
4 time between January and June 6 of 2009. Okay?

5 A. Okay.

6 Q. And you understand I'm not asking whether they
7 worked every week; I'm just saying were they considered
8 employees by the corporation at some point in time
9 between January and June 6 of 2009.

10 A. Yes, I understand.

11 Q. Socorro Aguilar?

12 A. Yes.

13 Q. Adam Aguirre?

14 A. No.

15 Q. Joseph Aken?

16 A. Yes.

17 Q. Janna Banks?

18 A. Yes.

19 Q. Kadie Beasley?

20 A. Yes.

21 Q. Erin Boardman?

22 A. Yes.

23 Q. Sonal Bowness?

24 A. Yes.

25 Q. Eric Breeding?

1 A. Yes.

2 Q. Amanda Brown?

3 A. Yes.

4 Q. Donna Bryant Goertz?

5 A. Yes.

6 Q. Kjersti Burkham?

7 A. Well, we classified her as an employee at that
8 time.

9 Q. Caroline Clark?

10 A. Yes.

11 Q. Mary Ann Collins?

12 A. Yes.

13 Q. Johnnie Denton?

14 A. Yes.

15 Q. Angela Eagle?

16 A. Yes.

17 Q. Brandi Fischer?

18 A. Yes.

19 Q. Lori Friedman?

20 A. Yes.

21 Q. Jesse Gevirtz?

22 A. Yes.

23 Q. Dawn Glasgow?

24 A. Yes.

25 Q. Donald Goertz?

- 1 A. Yes.
- 2 Q. Kate Hearne?
- 3 A. Yes.
- 4 Q. Jackie Howard?
- 5 A. Yes.
- 6 Q. Lynn Hunt?
- 7 A. Yes.
- 8 Q. Kelly Jarrell?
- 9 A. Yes.
- 10 Q. Mandy Klein?
- 11 A. Yes.
- 12 Q. Gwen Logan?
- 13 A. Yes.
- 14 Q. Thomas Logan?
- 15 A. Yes.
- 16 Q. Natalie London?
- 17 A. Yes.
- 18 Q. Mary Long Geil?
- 19 A. Yes.
- 20 Q. Amy Mahnken?
- 21 A. Yes.
- 22 Q. Sasha Marble?
- 23 A. Yes.
- 24 Q. Veronique Mareen?
- 25 A. Yes.

- 1 **Q. Cheryl McGee?**
- 2 A. Yes.
- 3 **Q. Amber Miller?**
- 4 A. Yes.
- 5 **Q. Valerie Monda?**
- 6 A. Yes.
- 7 **Q. Lois O'Brien?**
- 8 A. Yes.
- 9 **Q. Jerry Pippins?**
- 10 A. Yes.
- 11 **Q. Nick Pippins?**
- 12 A. Yes.
- 13 **Q. Lindsay Porter?**
- 14 A. Yes.
- 15 **Q. Erik Rivas-Rivas?**
- 16 A. Yes.
- 17 **Q. Donna Romine?**
- 18 A. Yes.
- 19 **Q. Margarita Ruiz?**
- 20 A. Yes.
- 21 **Q. Francoise Sansoni?**
- 22 A. Yes.
- 23 **Q. Jennifer Schiller?**
- 24 A. Yes.
- 25 **Q. Nancy Scott?**

1 A. Yes.

2 Q. Bill Sneed?

3 A. Yes.

4 Q. John Snyder?

5 A. Yes.

6 Q. Yvonne Solorio?

7 A. Yes.

8 Q. Elizabeth Suggs?

9 A. Yes.

10 Q. And one of those people, their name changed.

11 Can you remind for the record?

12 A. Mandy Klein is actually Amanda Weeks. Sasha
13 Marble is actually Leslie Marble.

14 Q. Now, on behalf of the corporation, I understand
15 that you dispute whether or not Kjersti Burkham was an
16 employee or not, but for the remaining individuals that
17 you've named, is the best way to determine whether or
18 not they were on the payroll of the company to look at
19 the records that are exhibited by Exhibit 3?

20 A. Yes.

21 Q. Is there any other way we can determine whether
22 or not someone was on the payroll during that time
23 period?

24 A. No.

25 Q. So to determine -- for my side to determine who

1 Q. Let me ask it a little bit differently, though.
2 Are you aware of any of these individuals on the second
3 page of Exhibit 4 listed between 1 and 48 that only
4 worked part of the school year?

5 A. Possibly Janna Banks. I can't remember when
6 she left. Erin Dean left, but I can't remember exactly
7 when. Judy Johnson was the same situation as Kjersti
8 Burkham and she did leave, but I can't remember when
9 that was either. Oh, and Judy Johnson, they're both
10 listed -- oh wait, Judy and -- yeah, Kjersti, that's
11 right. There are a lot of people that rotate in and
12 out, especially in assistant positions.

13 Q. Let me ask you again. We'll do the list thing,
14 but what I want to know is whether the corporation
15 considered the individuals I'm going to read out as
16 employees for FMLA purposes during this time period.
17 Okay?

18 A. For some part of it.

19 Q. Yes.

20 A. Okay.

21 Q. Between August 2009 and June 2010. You
22 understand my question?

23 A. Yes.

24 Q. Okay. And so that question as to whether or
25 not they were employees under that FMLA at some period

1 during August 2009 and June 2010. Socorro Aguilar?

2 A. Yes.

3 Q. Joseph Aken?

4 A. Yes.

5 Q. Janna Banks?

6 A. Yes.

7 Q. Kadie Beasley?

8 A. Yes.

9 Q. Erin Boardman?

10 A. Yes.

11 Q. Sonal Bowness?

12 A. Yes.

13 Q. Margie Breckwoldt?

14 A. Yes.

15 Q. Amanda Brown?

16 A. Yes.

17 Q. Donna Bryant Goertz?

18 A. Yes.

19 Q. Caroline Clark?

20 A. Yes.

21 Q. Mary Ann Collins?

22 A. Yes.

23 Q. Rachel Davison?

24 A. Yes.

25 Q. Erin Dean?

- 1 A. Yes.
- 2 Q. Johnnie Denton?
- 3 A. Yes.
- 4 Q. Angela Eagle?
- 5 A. Yes.
- 6 Q. Brandi Fischer?
- 7 A. Yes.
- 8 Q. Lori Friedman?
- 9 A. Yes.
- 10 Q. Jesse Gevirtz?
- 11 A. Yes.
- 12 Q. Dawn Glasgow?
- 13 A. Yes.
- 14 Q. Donald Goertz?
- 15 A. Yes.
- 16 Q. Megan Haley?
- 17 A. Yes.
- 18 Q. Kate Hearne?
- 19 A. Yes.
- 20 Q. Lynn Hunt?
- 21 A. Yes.
- 22 Q. Kelly Jarrell?
- 23 A. Yes.
- 24 Q. Judy Johnson?
- 25 A. Well, we classified her as an employee at that

1 time.

2 Q. Rebecca Kaiser?

3 A. Yes.

4 Q. Mandy Klein?

5 A. Yes.

6 Q. Gwen Logan?

7 A. Yes.

8 Q. Thomas Logan?

9 A. Yes.

10 Q. Natalie London?

11 A. Yes.

12 Q. Mary Long Geil?

13 A. Yes.

14 Q. Amy Mahnken?

15 A. Yes.

16 Q. Sasha Marble?

17 A. Yes.

18 Q. Veronique Mareen?

19 A. Yes.

20 Q. Melanie Matkin?

21 A. Yes.

22 Q. Cheryl McGee?

23 A. Yes.

24 Q. Amber Miller?

25 A. Yes.

1 Q. Valerie Monda?

2 A. Yes.

3 Q. Lois O'Brien?

4 A. Yes.

5 Q. Callie Osborne?

6 A. Yes.

7 Q. Jerry Pippins?

8 A. Yes.

9 Q. Erik Rivas-Rivas?

10 A. Yes.

11 Q. Donna Romine?

12 A. Yes.

13 Q. Margarita Ruiz?

14 A. Yes.

15 Q. Bill Sneed?

16 A. Yes.

17 Q. John Snyder?

18 A. Yes.

19 Q. Yvonne Solorio?

20 A. Yes.

21 Q. Kate Swope?

22 A. Yes.

23 MR. COOK: Staying awake, Bryan?

24 MR. MARSHALL: Yeah, kind of expected

25 this.

1 she's not an employee and never has been. I don't know
2 why -- that must have just been a -- she's listed down
3 here as a consultant. I don't know why she's on here.

4 Q. We're going to go through each of the names --

5 A. Yeah.

6 Q. -- but go ahead and look and see if there's
7 anyone else.

8 A. I think what I did is I converted it to --
9 anyway, it doesn't matter.

10 Q. So for the purposes of counting employees under
11 the FMLA, I'm going to read you a list and I want to
12 know if the corporation considered these employees at
13 some point in time between August and December of 2010.

14 A. Okay.

15 Q. Alexis Harper?

16 A. Yes.

17 Q. Amanda Brown?

18 A. Yes.

19 Q. Amber Miller?

20 A. Yes.

21 Q. Amy Mahnken?

22 A. Yes.

23 Q. Angela Eagle?

24 A. Yes.

25 Q. Bill Sneed?

- 1 A. Yes.
- 2 Q. Brandi Fischer?
- 3 A. Yes.
- 4 Q. Callie Osborne?
- 5 A. Yes.
- 6 Q. Caroline Golden?
- 7 A. Yes.
- 8 Q. Cheryl McGee?
- 9 A. Yes.
- 10 Q. Daniel Murphy?
- 11 A. Yes.
- 12 Q. Dawn Glasgow?
- 13 A. Yes.
- 14 Q. Donald Goertz?
- 15 A. Yes.
- 16 Q. Donna Bryant Goertz?
- 17 A. Yes.
- 18 Q. Elizabeth Padron?
- 19 A. Yes.
- 20 Q. Elizabeth Suggs?
- 21 A. Yes.
- 22 Q. Erik Rivas-Rivas?
- 23 A. Yes.
- 24 Q. Erin Boardman?
- 25 A. Yes.

- 1 **Q. Gwen Logan?**
- 2 A. Yes.
- 3 **Q. Janice Kearley?**
- 4 A. Yes.
- 5 **Q. Jennifer Suarez?**
- 6 A. Yes.
- 7 **Q. Jerry Pippins?**
- 8 A. Yes.
- 9 **Q. Jesse Gevirtz?**
- 10 A. Yes.
- 11 **Q. Jesse Jahnke?**
- 12 A. Yes.
- 13 **Q. John Snyder?**
- 14 A. Yes.
- 15 **Q. Johnnie Denton?**
- 16 A. Yes.
- 17 **Q. Joseph Aken?**
- 18 A. Yes.
- 19 **Q. Kadie Beasley?**
- 20 A. Yes.
- 21 **Q. Kate Hearne?**
- 22 A. Yes.
- 23 **Q. Kelly Jarrell?**
- 24 A. Yes.
- 25 **Q. Lois O'Brien?**

- 1 A. Yes.
- 2 Q. Lori Friedman?
- 3 A. Yes.
- 4 Q. Lynn Hunt?
- 5 A. Yes.
- 6 Q. Mandy Klein?
- 7 A. Yes.
- 8 Q. Margarita Ruiz?
- 9 A. Yes.
- 10 Q. Mary Collins?
- 11 A. Yes.
- 12 Q. Mary Long Geil?
- 13 A. Yes.
- 14 Q. Mary Ann Collins?
- 15 A. Yes.
- 16 Q. Meg Haley?
- 17 A. Yes.
- 18 Q. Melanie Matkin?
- 19 A. Yes.
- 20 Q. Natalie London?
- 21 A. Yes.
- 22 Q. Patricia Oriti?
- 23 A. No.
- 24 Q. Sasha Marble?
- 25 A. Yes.

1 Q. Socorro Aguilar?

2 A. Yes.

3 Q. Sonal Bowness?

4 A. Yes.

5 Q. Thomas Logan?

6 A. Yes.

7 Q. Valerie Monda?

8 A. Yes.

9 Q. Veronique Mareen?

10 A. Yes.

11 Q. Yvonne Solorio?

12 A. Yes.

13 Q. It's the corporation's position that Patricia
14 Oriti has never been an employee?

15 A. Yes.

16 Q. Did the corporation seek outside advice in that
17 decision that she was never an employee?

18 A. Not that -- I never did. Not that I'm aware.

19 Q. For the entire Exhibit 4 are you aware of
20 anybody that was either an employee or an independent
21 contractor that worked for the corporation in 2009 and
22 2010 that's not listed on Exhibit 4?

23 A. Well, let me see. I think Gilberto Miranda
24 should be on somewhere. He was kind of an in-and-out
25 fill-in-the-blank employee. So --

1 Mr. Russell Scott Clark and Ms. Melissa A.
2 Jacobs, Attorneys for the Plaintiff;

3 Mr. Bryan P. Marshall, Attorney for the
4 Defendant;

5 That \$ _____ is the deposition officer's
6 charges to the Plaintiff for preparing the original
7 deposition transcript and any copies of exhibits;

8 I further certify that I am neither counsel
9 for, related to, nor employed by any of the parties or
10 attorneys in the action in which this proceeding was
11 taken, and further that I am not financially or
12 otherwise interested in the outcome of the action.

13 Certified to by me this 30th day of July, 2012.
14
15

16 *Cynthia Warren*

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